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The **NORTH CAROLINA REGISTER**

IN THIS ISSUE

FINAL DECISION LETTERS

PROPOSED RULES

Agriculture

Commerce

Human Resources

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State Personnel

ISSUE DATE: MAY 1, 1989

Volume 4 • Issue 3 • Pages 193-216



INFORMATION ABOUT THE NORTH CAROLINA REGISTER AND ADMINISTRATIVE CODE

NORTH CAROLINA REGISTER

The *North Carolina Register* is published bi-monthly and contains information relating to agency, executive, legislative and judicial actions required by or affecting Chapter 150B of the General Statutes. All proposed, administrative rules and amendments filed under Chapter 150B must be published in the Register. The Register will typically comprise approximately fifty pages per issue of legal text.

State law requires that a copy of each issue be provided free of charge to each county in the state and to various state officials and institutions. The *North Carolina Register* is available by yearly subscription at a cost of one hundred and five dollars (\$105.00) for 24 issues.

Requests for subscriptions to the *North Carolina Register* should be directed to the Office of Administrative Hearings, P. O. Drawer 11666, Raleigh, N. C. 27604, Attn: *Subscriptions*.

ADOPTION, AMENDMENT, AND REPEAL OF RULES

An agency intending to adopt, amend, or repeal a rule must first publish notice of the proposed action in the *North Carolina Register*. The notice must include the time and place of the public hearing; a statement of how public comments may be submitted to the agency either at the hearing or otherwise; the text of the proposed rule or amendment; a reference to the Statutory Authority for the action and the proposed effective date.

The Director of the Office of Administrative Hearings has authority to publish a summary, rather than the full text, of any **amendment** which is considered to be too lengthy. In such case, the full text of the rule containing the proposed amendment will be available for public inspection at the Rules Division of the Office of Administrative Hearings and at the office of the promulgating agency.

Unless a specific statute provides otherwise, at least 30 days must elapse following publication of the proposal in the *North Carolina Register* before the agency may conduct the required public hearing and take action on the proposed adoption, amendment or repeal.

When final action is taken, the promulgating agency must file any adopted or amended rule for approval by the Administrative Rules Review Commission. Upon approval of ARRC, the adopted or amended rule must be filed with the Office of Administrative Hearings. If it differs substantially from the proposed form published as part of the public notice, upon request by the agency, the adopted version will again be published in the *North Carolina Register*.

A rule, or amended rule cannot become effective earlier than the first day of the second calendar month after the adoption is filed with the Office of Administrative Hearings for publication in the NCAC.

Proposed action on rules may be withdrawn by the promulgating agency at any time before final action is taken by the agency.

TEMPORARY RULES

Under certain conditions of an emergency nature, some agencies may issue temporary rules. A temporary rule becomes effective when adopted and remains in

effect for the period specified in the rule or 180 days whichever is less. An agency adopting a temporary rule must begin normal rule-making procedures on the permanent rule at the same time the temporary rule is adopted.

NORTH CAROLINA ADMINISTRATIVE CODE

The North Carolina Administrative Code (NCAC) is a compilation and index of the administrative rules of 25 state agencies and 38 occupational licensing boards. The NCAC comprises approximately 15,000 letter spaced pages of material of which approximately 35% is changed annually. Compilation and publication of the NCAC is mandated by G.S. 150B-63(b).

The Code is divided into Titles and Chapters. Each state agency is assigned a separate title which is further broken down by chapters. Title 21 is designated for occupational licensing boards.

The NCAC is available in two formats.

- (1) Single pages may be obtained at a minimum cost of two dollars and 50 cents (\$2.50) for pages or less, plus fifteen cents (\$0.15) per additional page.
- (2) The full publication consists of 52 volumes, totaling in excess of 15,000 pages. It is supplemented monthly with replacement pages. A one year subscription to the full publication including supplements can be purchased for seven hundred and fifty dollars (\$750.00). Individual volumes may also be purchased with supplement service. Renewal subscription supplements to the initial publication available.

Requests for pages of rules or volumes of the NCAC should be directed to the Office of Administrative Hearings.

NOTE

The foregoing is a generalized statement of the procedures to be followed. For specific statutory language it is suggested that Articles 2 and 5 of Chapter 150 of the General Statutes be examined carefully.

CITATION TO THE NORTH CAROLINA REGISTER

The *North Carolina Register* is cited by volume, issue, page number and date. **1:1 NCR 101-201, April 1, 1986** refers to Volume 1, Issue 1, pages 101 through 201 of the *North Carolina Register* issued on April 1, 1986.

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North Carolina Administrative Code. Published in looseleaf notebooks with supplement service by the Office of Administrative Hearings, P.O. Drawer 11666, Raleigh, North Carolina 27604, pursuant to Chapter 150B of the General Statutes. Subscriptions seven hundred and fifty dollars (\$750.00). Individual volumes available.

NORTH CAROLINA REGISTER



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NORTH CAROLINA REGISTER
Publication Deadlines and Schedules
 (January 1989 - May 1990)

Issue Date	Last Day for Filing	Last Day for Electronic Filing	Earliest Date for Public Hearing & Adoption by Agency	* Earliest Effective Date
*****	*****	*****	*****	*****
01/02/89	12/08/88	12/15/88	02/01/89	05/01/89
01/16/89	12/27/88	01/03/89	02/15/89	05/01/89
02/01/89	01/10/89	01/17/89	03/03/89	06/01/89
02/15/89	01/26/89	02/02/89	03/17/89	06/01/89
03/01/89	02/08/89	02/15/89	03/31/89	07/01/89
03/15/89	02/21/89	03/02/89	04/14/89	07/01/89
04/03/89	03/10/89	03/17/89	05/03/89	08/01/89
04/14/89	03/23/89	03/31/89	05/14/89	08/01/89
05/01/89	04/10/89	04/17/89	05/31/89	09/01/89
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07/14/89	06/22/89	06/29/89	08/13/89	11/01/89
08/01/89	07/11/89	07/18/89	08/31/89	12/01/89
08/15/89	07/25/89	08/01/89	09/14/89	12/01/89
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10/16/89	09/25/89	10/02/89	11/15/89	02/01/90
11/01/89	10/11/89	10/18/89	12/01/89	03/01/90
11/15/89	10/24/89	10/31/89	12/15/89	03/01/90
12/01/89	11/07/89	11/15/89	12/31/89	04/01/90
12/15/89	11/22/89	12/01/89	01/14/90	04/01/90
01/02/90	12/07/89	12/14/89	02/01/90	05/01/90
01/16/90	12/20/89	12/29/89	02/15/90	05/01/90
02/01/90	01/10/90	01/18/90	03/03/90	06/01/90
02/15/90	01/25/90	02/01/90	03/17/90	06/01/90
03/01/90	02/08/90	02/15/90	03/31/90	07/01/90
03/15/90	02/22/90	03/01/90	04/14/90	07/01/90
04/02/90	03/12/90	03/19/90	05/02/90	08/01/90
04/16/90	03/23/90	03/30/90	05/16/90	08/01/90
05/01/90	04/09/90	04/17/90	05/31/90	09/01/90
05/15/90	04/24/90	05/01/90	06/14/90	09/01/90

* The "Earliest Effective Date" is computed assuming that the public hearing and adoption occur in the calendar month immediately following the "Issue Date", that the agency files the rule with The Administrative Rules Review Commission by the 20th of the same calendar month and that ARRC approves the rule at the next calendar month meeting.

VOTING RIGHTS ACT FINAL DECISION LETTERS

[G.S. 120-30.9H, effective July 16, 1986, requires that all letters and other documents issued by the Attorney General of the United States in which a final decision is made concerning a "change affecting voting" under Section 5 of the Voting Rights Act of 1965 be published in the North Carolina Register.]

U.S. Department of Justice
Civil Rights Division

WBR:MAP:TGL:gmh
DJ 166-012-3
W2774-2776
W4781-4786

Voting Section
P.O. Box 66128
Washington, D.C. 20035-6128

August 19, 1988

William Sam Byassee, Esq.
Smith, Helms, Mulliss & Moore
P. O. Box 21927
Greensboro, North Carolina 27420

Dear Mr. Byassee:

This refers to Chapter 1016 (1988), which provides for a change in the method of election from at large to five single-member districts and two at-large positions (elected concurrently with single-shot voting permitted), the districting plan, the increase to seven members, the implementation schedule, and the election schedule; and Chapter 173 (1965) which provides for four-year, staggered terms and the November 8, 1966, special election for the board of commissioners in Caswell County, North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. We received your initial submission on June 22, 1988; supplemental information was received on August 16, 1988.

The Attorney General does not interpose any objections to the changes in question. However, we feel a responsibility to point out that Section 5 of the Voting Rights Act expressly provides that the failure of the Attorney General to object does not bar any subsequent judicial action to enjoin the enforcement of such changes. In addition, as authorized by Section 5, the Attorney General reserves the right to reexamine this submission if additional information that would otherwise require an objection comes to his attention during the remainder of the sixty-day review period. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.41 and 51.43).

Sincerely,

Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division

By:

Gerald W. Jones
Acting Chief, Voting Section

cc: R. Lee Farmer, Esq.
Farmer and Watlington

VOTING RIGHTS ACT FINAL DECISION LETTERS

U.S. Department of Justice
Civil Rights Division

JPT:DBM:TGL:rac
DJ 166-012-3
Y0222-0224

Voting Section
P.O. Box 66128
Washington, D.C. 20035-6128

January 12, 1989

William Sam Byassee, Esq.
Smith, Helms, Mulliss & Moore
P. O. Box 21927
Greensboro, North Carolina 27420

Dear Mr. Byassee:

This refers to the establishment of two polling places and the elimination of a polling place in Caswell County, North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. We received your submission on November 21, 1988.

The Attorney General does not interpose any objections to the changes in question. However, we feel a responsibility to point out that Section 5 of the Voting Rights Act expressly provides that the failure of the Attorney General to object does not bar any subsequent judicial action to enjoin the enforcement of such changes. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.41).

Sincerely,

James P. Turner
Acting Assistant Attorney General
Civil Rights Division

By:

Barry H. Weinberg
Acting Chief, Voting Section

VOTING RIGHTS ACT FINAL DECISION LETTERS

U.S. Department of Justice
Civil Rights Division

JPT:DBM:KIF:jmc
DJ 166-012-3
Y1935
Y4053

Voting Section
P.O. Box 66128
Washington, D.C. 20035-6128

March 29, 1989

William Sam Byassee, Esq.
Smith, Helms, Mulliss & Moore
P. O. Box 21927
Greensboro, North Carolina 27420

Dear Mr. Byassee:

This refers to the procedures for conducting the May 2, 1989, and August 15, 1989, special elections in Caswell County, North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. We received your initial submission on January 30, 1989; supplemental information was received on February 9, 1989.

The Attorney General does not interpose any objections to the changes in question. However, we feel a responsibility to point out that Section 5 of the Voting Rights Act expressly provides that the failure of the Attorney General to object does not bar any subsequent judicial action to enjoin the enforcement of such changes. In addition, as authorized by Section 5, the Attorney General reserves the right to reexamine this submission if additional information that would otherwise require an objection comes to his attention during the remainder of the sixty-day review period. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.41 and 51.43).

Sincerely,

James P. Turner
Acting Assistant Attorney General
Civil Rights Division

By:

Barry H. Weinberg
Acting Chief, Voting Section

TITLE 2 - DEPARTMENT OF
AGRICULTURE

Notice is hereby given in accordance with G.S. 150B-12 that the N.C. Plant Conservation Board intends to amend rule(s) cited as 2 NCAC 10G .0301 and .0302.

The proposed effective date of this action is September 1, 1989.

The public hearing will be conducted at 1:00 p.m. on June 2, 1989 at Board Room, Agriculture Building, 1 W. Edenton St., Raleigh, N.C.

Comment Procedures: Interested persons may present statements either orally or in writing at the public hearing or in writing prior to the hearing by mail addressed to Robert D. Sutter, Plant Conservation Program, NC Department of Agriculture, P.O. Box 27647, Raleigh, NC 27611.

CHAPTER 10 - PESTICIDE AND PLANT
PROTECTION DIVISION

SUBCHAPTER 10G - PLANT INDUSTRY

SECTION .0300 - ENDANGERED PLANT
SPECIES LIST: THREATENED PLANT SPECIES
LIST: LIST OF SPECIES OF SPECIAL
CONCERN

.0301 ENDANGERED PLANT SPECIES LIST

As authorized by G.S. 106-202.12 through 106-202.19 of the Plant Protection and Conservation Act of 1979, the North Carolina Plant Conservation Board hereby establishes the following list of endangered plant species:

- (1) Aeschynomene virginica -- (L.) B.S.P.
Sensitive Joint Vetch;
- (2) ~~(4)~~ Arenaria alabamensis -- (McCormick,
Bozeman & Spongberg) Wyatt
Alabama sandwort;
- (3) ~~(2)~~ Arenaria godfreyi -- Shinnery
Godfrey's Sandwort;
- (4) ~~(3)~~ Arenaria uniflora -- (Walter) Muhl.
Single Flowered Sandwort;
- (5) Arethusa bulbosa -- L.
Bog Rose;
- (6) ~~(4)~~ Asplenium heteroresillens -- W. H.
Wagner
Carolina Spleenwort Fern;
- (7) ~~(5)~~ Asplenium monanthos -- L.
Single Sorus Spleenwort Fern;
- (8) ~~(6)~~ Bryocrumia andersonii -- (Bartr.) Anders.
Gorge moss;

- (9) ~~(7)~~ Buckleya distichophylla -- (Nuttall)
Torrey
Piratebush;
- (8) ~~Camassia scilloides~~ -- Raf.
Wild Hyacinth;
- (10) Calamovilfa brevipilis -- (Torrey) Scribner
Pine Barrens Reedgrass;
- (11) Cardamine micranthera -- Rollins
Small-anthered Bittercress;
- (12) ~~(9)~~ Carex aenea -- Fernald
Fernald's Hay Sedge;
- (13) ~~(10)~~ Carex barrattii -- Schweinitz and Torrey
Barratts Sedge;
- (14) ~~(11)~~ Carex purpurifera -- Mackenzie
Purple Sedge;
- (15) Carex schweinitzii -- Dewey ex Schweinitz
Schweinitz's Sedge;
- (16) ~~(12)~~ Cystopteris X tennesseensis - Shaver
Tennessee Bladder Fern;
- (17) ~~(13)~~ Dalibarda repens -- L.
False Violet;
- (18) ~~(14)~~ Delphinium exaltatum -- Aiton
Tall Larkspur;
- (19) Echinacea laevigata -- (Boynston and Beadle) Blake
Smooth Coneflower;
- (20) ~~(15)~~ Eupatorium resinosum -- Torrey ex DC
Resinous Joe-Pye-Weed;
- (21) ~~(16)~~ Gentiana crinita -- Froelich
Fringed Gentian;
- (22) Geum radiatum -- Michaux
Spreading Avena;
- (23) ~~(17)~~ Glyceria nubigena -- W.A. Anderson
Smokey Mtn. Mannagrass;
- (24) ~~(18)~~ Grammitis nimbata -- (Jenm.) Proctor
Dwarf Polypody Fern;
- (25) ~~(19)~~ Helianthus schweinitzii -- T. & G.
Schweinitz' Sunflower;
- (26) ~~(20)~~ Hexastylis contracta -- Blomquist
Mountain Heart Leaf;
- (27) ~~(21)~~ Hexastylis naniflora -- Blomquist
Dwarf-flowered Heart Leaf;
- (28) ~~(22)~~ Hydrastis canadensis - L.
Goldenseal;
- (23) ~~Hex amelanchier~~ -- M.A. Curtis
Savvy Holly;
- (29) ~~(24)~~ Isotria medeoloides -- (Pursh) Raf.
Small Whorled Pogonia;
- (30) ~~(25)~~ Juncus trifidus ssp. carolinianus -- Hamet Aht.
One Flowered Rush;
- (31) ~~(26)~~ Kalmia cuneata -- Michaux
White Wicky;
- (32) ~~(27)~~ Lindera melissaefolia -- (Walter) Blume
Southern Spicebush;

- (33) ~~(28)~~ *Lindera subcoreacea* -- Wofford
Bob Spice Bush;
- (34) ~~(29)~~ *Lysimachia asperulaefolia* -- Poiret
Rough-leaf Loosestrife;
- (35) *Lysimachia fraseri* -- Duby
Fraser's Loosestrife;
- (36) *Muhlenbergia torreyana* -- (Schultes)
Hitchcock
Torrey's Muhly;
- (37) ~~(30)~~ *Narthecium americanum* -- Ker
Bog Asphodel;
- (38) ~~(31)~~ *Orthotrichum keeverae* -- Crum &
Anders.
Keever's bristle moss;
- (39) ~~(32)~~ *Oxypolis canbyi* -- (Coult. & Rose)
Fern.
Canby's cowbane;
- (40) ~~(33)~~ *Parnassia caroliniana* -- Michaux
Carolina Grass-of-Parnassus;
- (41) ~~(34)~~ *Pellaea X wrightiana* -- Hooker
Wright's Cliff-brake Fern;
- (42) ~~(35)~~ *Plantago cordata* -- Lam.
Heart-leaf Plantain;
- (43) *Plantago sparsiflora* -- Michaux
Pineland Plantain;
- (44) *Platanthera integrilabia* -- (Correll) Leur
White Fringeless Orchid;
- (45) ~~(36)~~ *Psoralea macrophylla* -- Rowlee
Bigleaf Scurfpea;
- (46) *Pteroglossaspis ecristata* -- (Fernald)
Rolfe;
Eulophia;
- (47) *Ptilimnium nodosum* -- (Rose) Mathias
Harperella;
- (48) ~~(37)~~ *Pyxidanthra barbulata* var. *brevifolia*
-- (Wells) Ahles
Well's Pyxie-moss;
- (49) ~~(38)~~ *Rhus michauxii* -- Sargent
Michaux' False Sumac;
- (49) ~~(39)~~ *Sabatia kennedyana* -- Fern.
Sea Pink;
- (50) ~~(40)~~ *Sagittaria fasciculata* -- E.O. Beal
Bunched Arrowhead;
- (51) ~~(41)~~ *Sarracenia jonesii* -- Wherry
Mountain Sweet Pitcher plant;
- (52) ~~(42)~~ *Sarracenia oreophila* -- (Kearney)
Wherry
Green Pitcher Plant;
- (53) *Schwalbea americana* -- L.
Chaffseed;
- (54) ~~(43)~~ *Sedum pusillum* -- Michaux
Puck's Orpine;
- (55) ~~(44)~~ *Sedum rosea* -- (L.) Scop.
Roseroot;
- (56) ~~(45)~~ *Senecio schweinitzianus* -- Nuttall
Robbins Groundsel;
- (57) ~~(46)~~ *Shortia galacifolia* -- T. & G.
Oconee Bells;

- (58) *Sisyrinchium dichotomum* -- Bicknell
Reflexed Blue-eyed Grass;
- (59) ~~(47)~~ *Solidago pulchra* -- Small
Carolina Goldenrod;
- (60) ~~(48)~~ *Solidago spithamea* -- M.A. Curtis
Blue Ridge Goldenrod;
- (61) ~~(49)~~ *Solidago verna* -- M.A. Curtis ex T.
& G.
Spring-flowering Goldenrod;
- (62) *Spiraea virginiana* -- Britton
Virginia Spiraea;
- (63) ~~(50)~~ *Sporobolus heterolepis* -- Gray
Prairie Dropseed;
- (64) *Stylisma pickeringii* var. *pickeringii* --
(Torrey ex M.A. Curtis) Gray
Pickering's Morning Glory;
- (65) ~~(51)~~ *Thalictrum cooleyi* -- Ahles
Cooley's Meadowrue;
- (66) ~~(52)~~ *Trillium pusillum* -- Michaux
Carolina Trillium;
- (67) ~~(53)~~ *Trisetum spicatum* var. *molle* -- (Mi-
chaux) Beal
Soft Trisetum.

Statutory Authority G.S. 106-202.15.

.0302 THREATENED PLANT SPECIES LIST

As authorized by G.S. 106-202.12 through 106-202.19 of the Plant Protection and Conservation Act of 1979, the North Carolina Plant Conservation Board hereby establishes the following list of threatened plant species:

- (1) *Amaranthus pumilus* -- Raf.
Seabeach Amaranth;
- (2) ~~*Arethusa bulbosa* -- L.~~
Bog Rose;
- (2) ~~(3)~~ *Cacalia rugelii* -- (Shuttl. excham)
Barkley & Cronq.
Rugel's Ragwort;
- (3) *Camassia scilloides* -- (Raf.) Cory
Wild Hyacinth;
- (4) ~~*Calamovilfa brevifolia* -- (Torrey) Scribner~~
Riverbank Sandreed;
- (4) ~~(5)~~ *Carex chapmanii* -- Steudel
Chapman's Sedge;
- (5) ~~(6)~~ *Carex conoidea* -- Willd.
Cone-shaped Sedge;
- (6) ~~(7)~~ *Carex misera* -- Buckley
Wretched Sedge;
- (7) ~~(8)~~ *Carya myristiciformis* -- (Michaux F.)
Nuttall
Nutmeg Hickory;
- (9) ~~*Coreopsis latifolia* -- Michaux~~
Broad-leaved Tickseed;
- (10) ~~*Echinacea laevigata* -- (Boynnton & Beadle)~~
Blake
Smooth Coneflower;
- (8) ~~(11)~~ *Eleocharis halophila* -- Fernald & Brack.

- Split Spikerush;
 (9) ~~(42)~~ *Fimbristylis perpusilla* -- Auth.
 (10) ~~(43)~~ *Geum geniculatum* -- Michaux
 Bent Avens;
 (11) *Gymnoderma lineare* -- (Evans) Yoshi-
 mura & Sharp
 Gnome Finger Lichen;
 (14) ~~*Geum radiatum* -- Gray~~
 Spreading Avens;
 (12) ~~(45)~~ *Habenaria integra* -- (Nuttall) Sprongel
 Yellow Fringeless Orchid;
 (13) ~~(46)~~ *Heleonias bullata* -- L.
 Swamp Pink;
 (14) ~~(47)~~ *Hudsonia montana* -- Nuttall
 Mountain Golden Heather;
 (15) ~~(48)~~ *Isoetes piedmontana* -- (Pfeiffer) Reed
 Piedmont Quillwort;
 (16) ~~(49)~~ *Liatris helleri* -- (Porter) Porter
 Heller's Blazing Star;
 (17) ~~(20)~~ *Lilaeopsis carolinensis* -- Coult. &
 Rose
 Carolina Lilaeopsis;
 (18) ~~(21)~~ *Lilium grayi* -- Watson
 Gray's Lily;
 (19) ~~(22)~~ *Menyanthes trifoliata* -- L.
 Buckbean;
 (20) ~~(23)~~ *Myriophyllum laxum* -- Schuttlew. ex
 Chapman
 Loose Watermilfoil;
 (21) ~~(24)~~ *Nemopanthus collinus* -- (Alexander)
 Clark
 Long-stalked Holly;
 (22) ~~(25)~~ *Nestronia umbellula* -- Raf.
 Nestronia;
 (23) *Rhexia aristosa* -- Britton
 Awned Meadow - beauty;
 (26) ~~*Ptilimnium nodosum* -- (Rose) Mathias~~
 Bishop's Weed;
 (24) ~~(27)~~ *Rudbeckia heliopsidis* -- T. & G.
 Sun-facing Coneflower;
 (25) *Sabatia Kennedyana* -- Fern.
 Sea Pink;
 (26) ~~(28)~~ *Schisandra glabra* -- (Brickel) Rehder
 Magnolia Vine;
 (27) ~~(29)~~ *Schlothemia lancifolia* -- Bartr.
 Highlands moss;
 (28) ~~(30)~~ *Senecio millefolium* -- T. & G.
 Divided-leaf Ragwort;
 (29) ~~(31)~~ *Sporobolus teretifolius* -- Harper
 Wireleaf Dropseed;
 (30) ~~(32)~~ *Thelypteris simulata* -- (Davenp.)
 Nieuwl.
 Bog Fern;
 (31) ~~(33)~~ *Trichomanes boschianum* -- Sturn ex
 Bosch
 Appalachian Filmy-fern;
 (32) ~~(34)~~ *Trichomanes petersii* -- A. Gray

- Peter's Filmy-fern;
 (33) *Trillium discolor* -- Wray ex Hook.
 Mottled Trillium
 (34) ~~(35)~~ *Utricularia olivacea* -- Wright ex
 Grisebach
 Dwarf Bladderwort.

Statutory Authority G.S. 106-202.15.

TITLE 4 - DEPARTMENT OF COMMERCE

Notice is hereby given in accordance with G.S. 150B-12 that the North Carolina Cemetery Commission intends to amend rule(s) cited as 4 NCAC 5C .0103.

The proposed effective date of this action is September 1, 1989.

The public hearing will be conducted at 10:00 a.m. on June 8, 1989 at Room 2063, Dobbs Building, 430 North Salisbury Street, Raleigh, NC 27611.

Comment Procedures: Written comments may be sent to the Cemetery Commission, 430 North Salisbury Street, Raleigh, NC 27611. Requests for opportunities to present oral testimony and a summary of the testimony must be received at this address by June 5, 1989.

CHAPTER 5 - CEMETERY COMMISSION

SUBCHAPTER 5C - LICENSING

SECTION .0100 - CEMETERIES

.0103 CHANGE OF CONTROL

Any entity wishing to purchase or acquire control of an existing cemetery company shall first make written application to the Cemetery Commission on the Commission's Application for Change of Control. This form provides space for the name and address of the present and proposed owner, along with the name of the corporation and the name of the cemetery. This form can be obtained by writing:

North Carolina Cemetery Commission
 Post Office Box 25249
 Raleigh, North Carolina 27611.

This form must be accompanied by a one hundred dollar (\$100.00) filing fee. The commission also requires the following:

- (1) an examination be made to establish compliance to trust fund requirements;
- (2) a signed certificate assuming disclosed liabilities of the existing cemetery company;

- (3) ~~the a financial structure statement of the existing cemetery company showing net worth;~~
- (4) certification by title insurance policy or by certificate of an attorney-at-law that the cemetery land, subject to appropriate acreage requirements, is owned in fee simple, free ~~and clear~~ of all encumbrances;
- (5) a financial statement of ~~future proposed~~ owner, showing net worth and a statement of the proposed owner's experience in the cemetery business.

No one shall take over the operation of a cemetery company in anticipation of a change of control until all necessary information concerning that change of control has been submitted to the administrator of the Cemetery Commission. No one shall change control of a cemetery company without first obtaining approval of the Cemetery Commission.

Statutory Authority G.S. 65-49; 65-53(2); 65-59.

TITLE 10 - DEPARTMENT OF HUMAN RESOURCES

Notice is hereby given in accordance with G.S. 150B-12 that the Department of Human Resources/Division of Facility Services intends to amend rule(s) cited as 10 NCAC 3R .2402, .2404 - .2405, .2407 - .2408.

The proposed effective date of this action is September 1, 1989.

The public hearing will be conducted at 9:00 a.m. on May 31, 1989 at Division of Facility Services, 701 Barbour Drive, Room 201, Raleigh, NC 27603.

Comment Procedures: Written comments concerning this amendment by May 31, 1989 to: Linda McDaniel, Division of Facility Services, 701 Barbour Drive, Raleigh, NC 27603. Oral comments may be presented at the hearing.

CHAPTER 3 - FACILITY SERVICES

SUBCHAPTER 3R - CERTIFICATE OF NEED REGULATIONS

SECTION .2400 - CRITERIA AND STANDARDS FOR INTERMEDIATE CARE FACILITY/MENTALLY RETARDED (ICF/MR)

.2402 DEFINITIONS

The definitions in this Rule will apply to all rules in this Section:

- (1) "Intermediate care facility for the mentally retarded or persons with related conditions (ICF/MR) services" means those services rendered in a facility or a part of a facility which is licensed and certified under state law with a primary purpose to provide health or habilitative services based on the developmental model and the principles of normalization for mentally retarded persons or persons with related conditions, e.g., epilepsy, cerebral palsy, autism. Such facility provides services to a mentally retarded individual for whom requests for payment are made under a plan approved under Title XIX of the Social Security Act of 1965 (Medicaid) and for whom active treatment is being given.
- (2) "Active treatment" means:
 - (a) regular participation in professionally developed and supervised activities, experiences, or therapies in accordance with an individual plan of care;
 - (b) an individual plan of care which is a written plan setting forth measurable goals or behaviorally stated objectives and prescribing an integrated program of individually designed activities, experiences or therapies necessary to achieve such goals or objectives;
 - (c) an interdisciplinary professional evaluation consisting of complete medical, social, or psychological diagnosis and an evaluation of the individual's need for the facility's care, prior to admission but not to exceed three months before admission to the facility or, in the case of individuals who make application while in such facility, before requesting payment under the plan;
 - (d) re-evaluation medically, socially, and psychologically, at least annually by the staff involved in carrying out the resident's individual plan of care, including review of the individual's progress toward meeting the plan of care, assessment of continuing need for facility care, and consideration of alternate methods of care; and
 - (e) an individual plan (as part of the individual's total plan of care) developed prior to discharge by a qualified mental retardation professional and other appropriate professionals, which includes the present residence, specifying the type of care and services that will be needed to enable the individual to function in a different environment and also includes provisions for protective supervision.
- (3) "Qualified Mental Retardation Professional" means: ~~any of the following:~~

- (a) **Psychologist** - A psychologist with at least a master's degree from an accredited program and with specialized training, or one year of experience, in working with the mentally retarded;
- (b) **Physician** - A physician licensed under state law to practice medicine or osteopathy and with specialized training, or one year of experience, in treating the mentally retarded;
- (c) **Educator** - An educator with a degree in education from an accredited program and with specialized training, or one year of experience, in working with the mentally retarded;
- (d) **Social Worker** - A social worker with a bachelor's degree in social work from an accredited program, or a bachelor's degree in a field other than social work and at least three years social work experience under the supervision of a qualified social worker, and with specialized training, or one year of experience, in working with the mentally retarded;
- (e) **Physical or Occupational Therapist** - A physical or occupational therapist as defined in 20 CFR 405.1101(m) or (q) and who has specialized training, or one year of experience, in treating the mentally retarded;
- (f) **Speech Pathologist or Audiologist** - A speech pathologist or audiologist as defined in 20 CFR 405.1101(t) and who has specialized training, or one year of experience, in working with the mentally retarded;
- (g) **Registered Nurse** - A registered nurse who has specialized training, or one year of experience, in treating the mentally retarded;
- (h) **Therapeutic Recreation Specialist** - A therapeutic recreation specialist who is a graduate of an accredited program and where applicable, is licensed or registered in the State, and who has specialized training, or one year of experience, in working with the mentally retarded;
- (i) **Rehabilitation Counselor** - A rehabilitation counselor who is certified by the Committee on Rehabilitation Counselor Certification and who has specialized training, or one year of experience, in working with the mentally retarded.

a staff person in an ICF/MR facility designated to be responsible for supervising the implementation of each resident's individual plan of care, integrating the various aspects

of the facility's program, recording each resident's progress and initiating periodic review of each individual plan of care. A Q.M.R.P. must meet the minimum qualifications for employment as defined in the 45 CFR 249 and 483.

- (4) **"Nonambulatory"** means unable to walk without assistance.
- (5) **"Mobile nonambulatory"** means unable to walk without assistance, but able to move from place to place with the use of a device such as a walker, crutches, a wheel chair, or a wheeled platform.
- (6) **"Nonmobile"** means unable to move from place to place.
- (7) **"Health professions schools"** means a college or university with fields of study pertaining to physical and/or mental status. These fields may include vocational or occupational preparation requiring advanced education and practical training in such areas as medicine, nursing, occupational therapy, physical therapy, psychology, speech therapy, special education, social work, and rehabilitation counseling.
- (8) **"Interdisciplinary specialty center"** means an ICF/MR facility in which various human service professions are combined for the establishment of a comprehensive treatment and habilitation program concentrated on a specific developmental level or behavior.
- (9) **"Research center"** means an ICF/MR facility designed for careful, systematic resident study, research, and investigation to discover or establish facts or principles in a specialized field or area of mental retardation and/or related conditions by professionals educated and trained in scientific methods. Such a facility must publish in professional journals and periodicals findings relative to the research being conducted and must provide education and training programs to other service providers of the mentally retarded and related conditions.
- (4) **"Catchment area"** means the geographic part of the state served by a specific area authority (**"Area authority"** means the mental health, mental retardation, and substance abuse authority).

Statutory Authority G.S. 131E-177(1),(5).

.2404 CAPACITY IN THE FACILITY AND IN THE HEALTH SERVICE AREA

- (a) Proposals to provide ICF/MR services must be consistent with the applicable North Carolina State Health Plan (the one in effect at the time the review period begins). State Medical

Facilities Plan. ~~and the applicable health systems plan.~~

(b) A proposal to provide new or expanded ICF/MR services must specify the number of ICF/MR beds to be operated following the completion of the proposed project.

(c) A proposal to provide expanded ICF/MR beds will not be approved unless the overall average occupancy, over the three months immediately preceding the submission of the proposal, of the total number of ICF/MR beds within the facility in which the new beds are to be operated was at least 90 percent.

(d) A proposal to provide ICF/MR beds must comply with one of the following models:

- (1) ~~small residential, five six beds or less, ICF/MR community-based freestanding facility, i.e., group home model; or~~
- (2) community-based 15 beds or less, ICF/MR facility to be developed when there are insufficient community-based resources or services available in the county or surrounding catchment area to adequately meet the needs of the population to be served.
- (2) ~~community-based, 15 beds or less, ICF/MR facility serving mentally retarded persons who are nonmobile, nonambulatory, or mobile nonambulatory;~~
- (3) ~~state operated mental retardation centers converting existing beds to ICF/MR beds;~~
- (4) ~~health profession schools, interdisciplinary specialty centers, and research centers proposing a residential facility larger than 15 ICF/MR beds but not to exceed 30 ICF/MR beds.~~

(e) There shall be no more than two residential facilities housing a combined total of 15 persons on contiguous pieces of property.

Statutory Authority G.S. 131E-177(1),(5).

.2405 SCOPE OF SERVICES OFFERED

(a) A proposal to provide new or expanded ICF/MR services must be able to demonstrate that all current applicable licensure standards will be met. Documentation must be presented to indicate that all services required by ~~law can be provided.~~ 45 CFR 249.13 will be available as needed.

(b) The application must include a copy of the admission/discharge policies and specify the proposed working relationship with the Area Authority and its Interagency Council regarding admissions and discharges of persons in the program.

Statutory Authority G.S. 131E-177(1),(5).

.2407 PROJECTED RESIDENT ORIGIN

(a) A proposal to provide new or expanded ICF/MR services must project resident origin by percentage by county of residence. All assumptions, including the specific methodology by which resident origin is projected, must be clearly stated.

(b) A proposal to provide new or expanded ICF/MR services must show that at least 80 percent of the anticipated resident population will be within 90 minutes automobile driving time (one-way) from the facility with the exception that this standard may be waived for the following:

- (1) ~~facilities specified in standard .2404(d)(3), and (d) (4) of this Section;~~
- (1) ~~(2)~~ residents leaving state regional mental retardation centers and psychiatric hospitals and entering community ICF/MR facilities;
- (2) ~~(3)~~ proposals to serve exclusively one of the following related conditions: autism, epilepsy, cerebral palsy.

Statutory Authority G.S. 131E-177(1),(5).

.2408 SITE: BUILDING AND EQUIPMENT

(a) A proposal to provide new or expanded ICF/MR services must specify the site on which the services are to be operated. If such site is neither owned by nor under option to be bought by the proponent, the proponent must provide a written commitment to diligently pursue acquiring the site if and when health planning approvals are granted, must specify a secondary site on which the services could be operated should acquisition efforts relative to the primary site ultimately fail, and must demonstrate that the primary and secondary sites are available for acquisition.

(b) A proposal to provide new or expanded ICF/MR services must clearly demonstrate that consideration has been given to the factors that may delay or prevent the development or offering of services on the proposed site.

(c) A proposal to provide new or expanded ICF/MR services must provide satisfactory assurances that the services will be provided in a physical environment that conforms to the requirements of federal, state, and local regulatory bodies.

(d) A proposal to provide new or expanded ICF/MR services must consider the site location in relation to the availability of developmental services outside the facility.

(e) A proposal to provide new or expanded ICF/MR services shall be located within 60 mi-

notes automobile driving time (one-way) of the residents' day program(s).

(f) A proposal for new or expanded ICF/MR services must have adequate provisions for individual space, ~~outdoor space, and activities.~~ and access to recreation areas and activities.

Statutory Authority G.S. 131E-177(1),(5).

TITLE 11 - DEPARTMENT OF INSURANCE

Notice is hereby given in accordance with G.S. 150B-12 that the N.C. Department of Insurance intends to repeal rule(s) cited as 11 NCAC 10 .0309 - .0311.

The proposed effective date of this action is September 1, 1989.

The public hearing will be conducted at 10:00 a.m. on May 31, 1989 at Third Floor Hearing, Dobbs Building, 430 N. Salisbury Street, Raleigh, NC 27611.

Comment Procedures: Written comments may be sent to Charles Swindell, P.O. Box 26387, Raleigh, NC 27611. Oral presentations may be made at the public hearing. Anyone having questions should call Charles Swindell at (919) 733-3368, or Linda Stott at (919) 733-4700.

CHAPTER 10 - FIRE AND CASUALTY DIVISION

SECTION .0300 - RULES AND INTERPRETATIONS

.0309 INVESTMENT INCOME DATA-CERTIFICATION TO COMMISSIONER (REPEALED)

.0310 AUDITED DATA: AUTO-CERTIFICATION TO COMMISSIONER (REPEALED)

Statutory Authority G.S. 58-9; 58-25.1; 58-124.18(d); 59-124.20.

.0311 AUDITED DATA: HOMEOWNERS AND WORKERS' COMPENSATION (REPEALED)

Statutory Authority G.S. 58-9; 58-25.1; 58-124.18(d); 58-124.20(c).

TITLE 15 - DEPARTMENT OF NATURAL RESOURCES AND COMMUNITY DEVELOPMENT

Notice is hereby given in accordance with G.S. 150B-12 that the Division of Environmental Management (Environmental Management Commission) intends to amend rules cited as 15 NCAC 2B .0216, .0310 - .0312, .0315 - .0317.

The proposed effective date of this action is January 1, 1990.

The public hearing will be conducted at the following locations, dates and time:

Columbia
June 6, 1989 - 7:00 p.m.
Madge Van Horne Auditorium
Columbia High School
Main Street
Columbia, NC

Morehead City
June 7, 1989 - 7:00 p.m.
Joslyn Hall-Carteret
Community College
3505 Arendell Street
Morehead City, NC

Wilmington
June 8, 1989 - 7:00 p.m.
Bryan Auditorium, Morton Hall
UNC-Wilmington
601 South College Road
Wilmington, NC

Comment Procedures: All persons interested in this matter are invited to attend. Comments, data, statements and other information may be submitted in writing prior to, during or within 30 days after the hearing or may be presented orally at the hearing. So that all persons desiring to speak may do so, statements may be limited at the discretion of the hearing officer(s). All persons making oral presentations are requested to submit a written copy to the hearing officer(s). For more information contact Gregory Thorpe, Division of Environmental Management, P.O. Box 27687, Raleigh, NC (919) 733-5083 (Zip 27611).

CHAPTER 2 - ENVIRONMENTAL MANAGEMENT

SUBCHAPTER 2B - SURFACE WATER STANDARDS: MONITORING

SECTION .0200 - CLASSIFICATIONS AND WATER QUALITY STANDARDS APPLICABLE TO SURFACE WATERS OF NORTH CAROLINA

.0216 OUTSTANDING RESOURCE WATERS

(c) Quality Standards for ORW.

- (1) Freshwater: Water quality conditions shall clearly maintain and protect the outstanding resource values of waters classified ORW. Temporary and short-term changes in water quality may be permitted provided that interim water quality will maintain existing uses. A public hearing is mandatory for any proposed permits to discharge to waters classified as ORW. Additional actions to protect resource values will be considered on a site specific basis during the proceedings to classify waters as ORW and will be specified in Paragraph (e) of this Rule. These actions may include anything within the powers of the commission. The commission will also consider local actions which have been taken to protect a water body in determining the appropriate state protection options.
- (2) Saltwater: Water quality conditions shall clearly maintain and protect the outstanding resource values of waters classified ORW. No permanent degradation of water quality will be allowed. Temporary and short-term changes in water quality may be permitted provided that interim water quality will maintain existing uses. Management strategies to protect resource values will be developed on a site-specific basis during the proceedings to classify waters as ORW. At a minimum, new development will comply with the low density options as specified in the Stormwater Runoff Disposal rules (16 NCAC 2H .1003 (a)(2)) within 575 feet of the mean high water line of the designated ORW area. New non-discharge permits will be required to meet reduced loading rates and increased buffer zones, to be determined on a case-by-case basis. No dredge or fill activities will be allowed where significant fish or shellfish or submerged aquatic vegetation bed resources may occur, except for maintenance dredging, such as that required to maintain access to existing channels and facilities located within the designated areas or maintenance dredging for activities such as agriculture. A public hearing is mandatory for any proposed permits to discharge to waters classified as ORW. Additional actions to protect resource values will be considered on a site specific basis during the proceedings to classify waters as ORW and will be specified in

Paragraph (e) of this Rule. These actions may include anything within the powers of the commission. The commission will also consider local actions which have been taken to protect a water body in determining the appropriate state protection options.

(e) Listing of Waters Classified ORW with Specific Actions. Waters classified as ORW with specific actions to protect exceptional resource values are listed as follows:

- (4) In the following designated waterbodies, no additional restrictions will be placed on new or expanded marinas. The only new or expanded NPDES permitted discharges that will be allowed will be non-domestic, non-process industrial discharges.

(A) The Alligator River Area (Pasquotank River Basin) extending from the source of the Alligator River to the U.S. Highway 64 bridge including New Lake Fork, North West Fork Alligator River, Juniper Creek, Southwest Fork Alligator River, Scouts Bay, Gum Neck Creek, Georgia Bay, Winn Bay, Stumpy Creek Bay, Stumpy Creek, Swann Creek (Swann Creek Lake), Whipping Creek (Whipping Creek Lake), Grapevine Bay, Rattlesnake Bay, The Straits, The Frying Pan, Coopers Creek, Babbitt Bay, Goose Creek, Milltail Creek, Boat Bay, Sandy Ridge Gut (Sawyer Lake) and Second Creek, but excluding the Intracoastal Waterway (Pungo River-Alligator River Canal) and all other tributary streams and canals.

- (5) In the Following designated waterbodies, the only type of new or expanded marina that will be allowed will be those marinas located in upland basin areas. The only new or expanded NPDES permitted discharges that will be allowed will be non-domestic, non-process industrial discharges.

(A) The Neuse-Southeast Pamlico Sound Area (Southeast Pamlico Sound Section of the Southeast Pamlico, Core and Back Sound Area); (Neuse River Basin) including all waters within an area defined by a line extending from the southern shore of Ocracoke Inlet northwest to the Tar-Pamlico River and Neuse River basin boundary, then southwest to Ship Point.

(B) The Core Sound Section of the Southeast Pamlico, Core and Back Sound Area (White Oak River Basin) including all waters of Core Sound and its tributaries

but excluding Nelson Bay, the Atlantic Harbor Restricted Area and those tributaries of Jarrett Bay that are closed to shellfishing.

(C) The Western Bogue Sound Section of the Western Bogue Sound and Bear Island Area (White Oak River Basin) including all waters within an area defined by a line from Bogue Inlet to the mainland at SR 1117 to a line across Bogue Sound from the southwest side of Gales Creek to Rock Point, including Deer Creek, Taylor Bay, Archer Creek, Sanders Creek and the Intracoastal Waterway.

(D) The Stump Sound Area (Cape Fear River Basin) including all waters of Stump Sound and Alligator Bay from marker Number 17 to the western end of Bermuda Island, but excluding Rogers Bay, the Kings Creek Restricted Area and Mill Creek.

(E) The Topsail Sound and Middle Sound Area (Cape Fear River Basin) including all estuarine waters from New Topsail Inlet to Mason Inlet, including the Intracoastal Waterway and Howe Creek, but excluding Pages Creek and Futch Creek.

(F) The Lockwoods Folly River Area (Lumber River Basin) includes all waters of the lower Lockwoods Folly River in an area extending north from the Intracoastal Waterway to a line extending from Genoes Point to Mullet Creek.

(6) In the following designated waterbodies, no new or expanded NPDES permitted discharges and no new or expanded marinas will be allowed.

(A) The Swanquarter Bay and Juniper Bay Area (Tar-Pamlico River Basin) including all waters within a line beginning at Juniper Bay Point and running south and then west below Great Island, then northwest to Shell Point and including Shell Bay, Swanquarter and Juniper Bays and their tributaries, but excluding the Blowout Canal, Hydeland Canal, Juniper Canal and Quarter Canal.

(B) The Back Sound Section of the Southeast Pamlico, Core and Back Sound Area (White Oak River Basin) including that area of Back sound extending from Core Sound west along Shackelford Banks, then north to the western most point of Middle Marshes and along the northeast shore of Middle Marshes (to include all of Middle Marshes), then west to Rush Point on Harker's Island, and along the

southern shore of Harker's Island back to Core Sound.

(C) The Bear Island Section of the Western Bogue Sound and Bear Island Area (White Oak River Basin) including all waters within an area defined by a line from the western most point on Bear Island to the northeast mouth of Goose Creek on the mainland, east to the southwest mouth of Queen Creek, then south to green marker No. 49, then northeast to the northern most point on Huggins Island, then southeast along the shoreline of Huggins Island to the southeastern most point of Huggins Island, then south to the northeastern most point on Dudley Island, then southwest along the shoreline of Dudley Island to the eastern tip of Bear Island.

(D) The Masonboro Sound Area (Cape Fear River Basin) including all waters between the Barrier Islands and the mainland from Carolina Beach Inlet to Masonboro Inlet.

Statutory Authority G.S. 143-214.1.

SECTION .0300 - ASSIGNMENT OF STREAM CLASSIFICATIONS

.0310 LUMBER RIVER BASIN

(c) The Lumber River Basin Schedule of Classification and Water Quality Standards was amended effective:

- (1) March 1, 1977;
- (2) December 13, 1979;
- (3) September 14, 1980;
- (4) April 12, 1981;
- (5) April 1, 1982;
- (6) February 1, 1986.
- (7) December 1, 1989.

(d) The Schedule of Classifications and Water Quality Standards for the Lumber River Basin was amended effective December 1, 1989 by the reclassification of Lockwoods Folly River (Index No. 15-25-I(16) from a line across Lockwoods Folly River from Genoes Point to Mullet Creek to Intracoastal Waterway was reclassified from Class SA to Class SA ORW.

Statutory Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1).

.0311 CAPE FEAR RIVER BASIN

(b) The Cape Fear River Basin Schedule of Classifications and Water Quality Standards was amended effective:

- (1) March 1, 1977;

- (2) December 13, 1979;
- (3) December 14, 1980;
- (4) August 9, 1981;
- (5) April 1, 1982;
- (6) December 1, 1983;
- (7) January 1, 1985;
- (8) August 1, 1985;
- (9) December 1, 1985;
- (10) February 1, 1986;
- (11) July 1, 1987;
- (12) October 1, 1987;
- (13) March 1, 1988;
- (14) June 1, 1988;
- (15) July 1, 1988.
- (16) December 1, 1989.

(c) The Schedule of Classifications and Water Quality Standards for the Cape Fear River Basin has been amended effective December 1, 1989 as follows:

- (1) Intracoastal Waterway (Index No. 18-87) from southern edge of White Oak River Basin to western end of Permuda Island (a line from Morris Landing to Atlantic Ocean), from the eastern mouth of Old Topsail Creek to the southwestern shore of Howe Creek and from the southwest mouth of Shinn Creek to channel marker No. 153 including all tributaries except the King Creek Restricted Area, Hardison Creek, Old Topsail Creek, Mill Creek, Futch Creek and Pages Creek were reclassified from Class SA to Class SA ORW.
- (2) Topsail Sound and Middle Sound ORW Area which includes all waters between the Barrier Islands and the Intracoastal Waterway located between a line running from the western most shore of Mason Inlet to the southwestern shore of Howe Creek and a line running from the western shore of New Topsail Inlet to the eastern mouth of Old Topsail Creek was reclassified from Class SA to Class SA ORW.
- (3) Masonboro Sound ORW Area which includes all waters between the Barrier Islands and the mainland from a line running from the southwest mouth of Shinn Creek at the Intracoastal Waterway to the southern shore of Masonboro Inlet and a line running from the Intracoastal Waterway Channel marker No. 153 to the southside of the Carolina Beach Inlet was reclassified from Class SA to Class SA ORW.

.0312 WHITE OAK RIVER BASIN

(b) The White Oak River Basin Schedule of Classification and Water Quality Standards was amended effective:

- (1) December 13, 1979;
- (2) June 1, 1988;
- (3) December 1, 1989.

(c) The Schedule of Classifications and Water Quality Standards for the White Oak River Basin has been amended effective December 1, 1989 as follows:

- (1) Intracoastal Waterway (Index No. 19-39) from northeastern boundary of Cape Fear River Basin to Daybeacon No. 17 including all unnamed bays, guts, and channels, except Rogers Bay and Mill Creek and Intracoastal Waterway (Index No. 19-41) from the northeast mouth of Goose Creek to the southwest mouth of Queen Creek were reclassified from Class SA to Class SA ORW.
- (2) Bear Island ORW Area, which includes all waters within an area north of Bear Island defined by a line from the western most point on Bear Island to the northeast mouth of Goose Creek on the mainland, east to the southwest mouth of Queen Creek, then south to green marker No. 49, then northeast to the northern most point on Huggins Island, then southeast along the shoreline of Huggins Island to the southeastern most point of Huggins Island, then south to the northeastern most point on Dudley Island, then southwest along the shoreline of Dudley Island to the eastern tip of Bear Island to the western mouth of Foster Creek including Cow Channel were reclassified from Class SA to Class SA ORW.
- (3) Bogue Sound (including Intracoastal Waterway from White Oak River Basin to Beaufort Inlet) (Index No. 20-36) from Bogue Inlet to a line across Bogue Sound from the southwest side of mouth of Gales Creek to Rock Point and all tributaries except Hunting Island Creek, Goose Creek, and Broad Creek were reclassified from Class SA to Class SA ORW.
- (4) Core Sound (Index No. 21-35-7) from northern boundary of White Oak River Basin (a line from Hall Point to Drum Inlet) to Back Sound and all tributaries except Atlantic Harbor Restricted Area, Nelson Bay, Jarrett Bay, Williston Creek, Wade Creek and Middens Creek were reclassified from Class SA to Class SA ORW.

Statutory Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1).

- (5) Back Sound (Index No. 21-35) from a point on Shackelford Banks at lat. 34 degrees 40' 57" and long 76 degrees 37' 30" north to the western most point of Middle Marshes and along the northwest shoreline of Middle Marshes (to include all of Middle Marshes) to Rush Point on Harkers Island and along the southern shore of Harkers Island back to Core Sound and all tributaries were reclassified from Class SA to Class SA ORW.

Statutory Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1).

.0315 NEUSE RIVER BASIN

(b) The Neuse River Basin Schedule of Classification and Water Quality Standards was amended effective:

- (1) March 1, 1977;
- (2) December 13, 1979;
- (3) September 14, 1980;
- (4) August 9, 1981;
- (5) January 1, 1982;
- (6) April 1, 1982;
- (7) December 1, 1983;
- (8) January 1, 1985;
- (9) August 1, 1985;
- (10) February 1, 1986;
- (11) May 1, 1988;
- (12) July 1, 1988;
- (13) October 1, 1988.
- (14) December 1, 1989.

(e) The Schedule of Classifications and Water Quality Standards for the Neuse River Basin has been amended effective December 1, 1989 as follows:

- (1) Neuse-Southeast Pamlico Sound ORW Area which includes all waters within a line beginning at the southwest tip of Ocracoke Island, and extending north west along the Tar-Pamlico River Basin and Neuse River Basin boundary line to Lat. 35 degrees 06' 30", thence in a southwest direction to Ship Point and all tributaries, were reclassified from Class SA NSW to Class SA NSW ORW.
- (2) Core Sound (Index No. 27-149) from northeastern limit of White Oak River Basin (a line from Hall Point to Drum Inlet) to Pamlico Sound and all tributaries, except Thorofare, John Day Ditch were reclassified from Class SA NSW to Class SA NSW ORW.

Statutory Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1).

.0316 TAR-PAMLICO RIVER BASIN

(c) The Tar-Pamlico River Basin Schedule of Classification and Water Quality Standards was amended effective:

- (1) March 1, 1977;
- (2) November 1, 1978;
- (3) June 8, 1980;
- (4) October 1, 1983;
- (5) June 1, 1984;
- (6) August 1, 1985;
- (7) February 1, 1986;
- (8) August 1, 1988;
- (9) December 1, 1989.

(e) The Schedule of Classifications and Water Quality Standards for the Tar-Pamlico River Basin has been amended effective December 1, 1989 by the reclassification of Pamlico River and Pamlico Sound (Index No. 29-(27)) which includes all waters within a line beginning at Juniper Bay Point and running due south to Lat. 35 degrees 18' 00", long. 76 degrees 13' 20", thence due west to lat. 35 degrees 18' 00", long 76 degrees 20' 00", thence northwest to Shell Point and including Shell Bay, Swanquarter and Juniper Bays and their tributaries, but excluding the Blowout, Hydeland Canal, Juniper Canal and Quarter Canal were reclassified from Class SA and SC to SA ORW and SC ORW.

Statutory Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1).

.0317 PASQUOTANK RIVER BASIN

(c) The Pasquotank River Basin Schedule of Classifications and Water Quality Standards was amended effective:

- (1) March 1, 1977;
- (2) May 18, 1977;
- (3) December 13, 1979;
- (4) January 1, 1985;
- (5) February 1, 1986;
- (6) December 1, 1989.

(d) The Schedule of Classifications and Water Quality Standards for the Pasquotank River Basin was amended effective December 1, 1989 by the reclassification of Alligator River [Index Nos. 30-16(1) and 30-16-(7)] from source to U.S. Hwy. 64 and all tributaries except Swindells Canal, Florida Canal, New Lake, Fairfield Canal, Carters Canal, Dunbar Canal and Intracoastal Waterway (Pungo River - Alligator River Canal) were reclassified from C Sw and SC Sw to C Sw ORW and SC Sw ORW.

Statutory Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1).

Notice is hereby given in accordance with G.S. 150B-12 that the North Carolina Wildlife Resources Commission intends to amend rule(s) cited as 15 NCAC 10B .0115.

The proposed effective date of this action is September 1, 1989.

The public hearing will be conducted at 7:00 p.m. on June 12, 1989 at Mt. Pleasant High School Auditorium, Highway 49, Mt. Pleasant, North Carolina.

Comment Procedures: Interested persons may present their views either orally or in writing at the hearing. In addition, the record of hearing will be open for receipt of written comments from May 29, 1989 to June 27, 1989. Such written comments must be delivered or mailed to the N.C. Wildlife Commission, 512 N. Salisbury St., Raleigh, NC 27611.

CHAPTER 10 - WILDLIFE RESOURCES AND WATER SAFETY

SUBCHAPTER 10B - HUNTING AND TRAPPING

SECTION .0100 - GENERAL REGULATIONS

.0115 SHINING LIGHTS IN DEER AREAS

(a) It having been found upon sufficient evidence that certain areas frequented by deer are subject to substantial unlawful night deer hunting, or that residents in such areas have been greatly inconvenienced by persons shining lights on deer, or both, the shining of lights on deer in such areas is limited by Paragraphs (b) and (c) of this Rule, subject to the exceptions contained in Paragraph (d) of this Rule.

(b) No person shall, between the hours of 11:00 p.m. and one-half hour before sunrise, intentionally shine a light upon a deer or intentionally sweep a light in search of deer in the indicated portions of the following counties:

- (1) Beaufort -- entire county;
- (2) Bladen -- entire county;
- (3) Brunswick -- entire county;
- (4) Camden -- entire county;
- (5) Chowan -- entire county;
- (6) Currituck -- entire county;
- (7) Duplin -- entire county;
- (8) Edgecombe -- entire county;
- (9) Franklin -- entire county;
- (10) Gates -- entire county;
- (11) Granville -- entire county;
- (12) Greene -- entire county;

- (13) Hertford -- entire county;
- (14) Hoke -- entire county;
- (15) Hyde -- entire county, except that part of the county described in Paragraph (c) of this Rule;
- (16) Jones -- entire county;
- (17) Lenoir -- entire county;
- (18) Martin -- entire county;
- (19) Montgomery -- entire county;
- (20) Nash -- entire county;
- (21) Orange -- entire county;
- (22) Pamlico -- entire county;
- (23) Pasquotank -- entire county;
- (24) Pender -- entire county;
- (25) Perquimans -- entire county;
- (26) Pitt -- entire county;
- (27) Richmond -- entire county;
- (28) Robeson -- entire county;
- (29) Sampson -- entire county;
- (30) Tyrrell -- entire county;
- (31) Vance -- entire county;
- (32) Wake -- entire county;
- (33) Warren -- entire county;
- (34) Washington -- entire county;
- (35) Wayne -- entire county.

(c) No person shall, between the hours of one-half hour after sunset and one-half hour before sunrise, intentionally shine a light upon a deer or intentionally sweep a light in search of deer in the indicated portions of the following counties:

- (1) Alamance -- entire county;
- (2) Alexander -- entire county;
- (3) Alleghany -- entire county;
- (4) Anson -- entire county;
- (5) Ashe -- entire county;
- (6) Avery -- that portion south and east of Highway 221;
- (7) Burke -- entire county;
- (8) Cabarrus -- entire county;
- (9) ~~(8)~~ Caldwell -- entire county;
- (10) ~~(9)~~ Caswell -- entire county;
- (11) ~~(10)~~ Catawba -- entire county;
- (12) ~~(11)~~ Chatham -- entire county;
- (13) ~~(12)~~ Clay -- entire county;
- (14) ~~(13)~~ Cleveland -- entire county;
- (15) ~~(14)~~ Cumberland -- entire county;
- (16) ~~(15)~~ Davidson -- entire county;
- (17) ~~(16)~~ Davie -- entire county;
- (18) ~~(17)~~ Gaston -- entire county;
- (19) ~~(18)~~ Guilford -- entire county;
- (20) ~~(19)~~ Halifax -- entire county;
- (21) ~~(20)~~ Henderson -- entire county;
- (22) ~~(21)~~ Hyde -- that part bounded on the north by a line running parallel with and 1000 yards in a northward direction from that part of SR 1304 that leads from Hodges' Fork to Rose Bay, on the east

by the Mattamuskeet National Wildlife Refuge boundary, on the southeast by US 264, and on the west and southwest by a line running parallel with and 1000 yards in a west or southwest direction from the centerline of SR 1304;

- (23) ~~(22)~~ Iredell -- entire county;
- (24) ~~(23)~~ Johnston -- entire county;
- (25) ~~(24)~~ Lee -- entire county;
- (26) ~~(25)~~ Lincoln -- entire county;
- (27) ~~(26)~~ McDowell -- entire county;
- (28) ~~(27)~~ Mecklenburg -- entire county;
- (29) ~~(28)~~ Mitchell -- entire county;
- (30) ~~(29)~~ Northampton -- entire county;
- (31) ~~(30)~~ Person -- entire county;
- (32) ~~(31)~~ Polk -- entire county;
- (33) ~~(32)~~ Randolph -- entire county;
- (34) ~~(33)~~ Rockingham -- entire county;
- (35) ~~(34)~~ Rowan -- entire county;
- (36) ~~(35)~~ Rutherford -- entire county;
- (37) ~~(36)~~ Scotland -- that part lying west of US 401 north of Laurinburg and north of US 74 west of Laurinburg;
- (38) ~~(37)~~ Stanly -- entire county;
- (39) ~~(38)~~ Stokes -- entire county;
- (40) ~~(39)~~ Surry -- entire county;
- (41) ~~(40)~~ Transylvania -- entire county;
- (42) ~~(41)~~ Union -- entire county;
- (43) ~~(42)~~ Watauga -- entire county;
- (44) ~~(43)~~ Wilkes -- entire county;
- (45) ~~(44)~~ Yadkin -- entire county;
- (46) ~~(45)~~ Yancey -- entire county.

(d) Paragraphs (b) and (c) of this Rule shall not be construed to prevent:

- (1) the lawful hunting of raccoon or opossum during open season with artificial lights designed or commonly used in taking raccoon and opossum at night;
- (2) the necessary shining of lights by landholders on their own lands;
- (3) the shining of lights necessary to normal travel by motor vehicles on roads or highways; or
- (4) the use of lights by campers and others who are legitimately in such areas for other reasons and who are not attempting to attract or to immobilize deer by the use of lights.

Statutory Authority G.S. 113-134; 113-291.1.

* * * * *

Notice is hereby given in accordance with G.S. 150B-12 that the North Carolina Wildlife Resources Commission intends to amend rule(s)

cited as 15 NCAC 10B .0117; 15 NCAC 10D .0002 - .0003; 15 NCAC 10F .0336, .0343.

The proposed effective date of this action is September 1, 1989.

The public hearing will be conducted at 10:00 a.m. on May 31, 1989 at Room 386, Archdale Building, 512 N. Salisbury Street, Raleigh, North Carolina.

Comment Procedures: Interested persons may present their views either orally or in writing at the hearing. In addition, the record of hearing will be open for receipt of written comments from May 16, 1989 to June 15, 1989. Such written comments must be delivered or mailed to the N.C. Wildlife Commission, 512 N. Salisbury St., Raleigh, NC 27611.

.0117 REPLACEMENT COSTS OF WILDLIFE RESOURCES

(c) Costs of Replacement. Based on the factors listed in Paragraph (b) of this Rule, including the June, 1980, consumer price index of 247.6 percent of the 1967 base, the following wild animals and wild birds are listed with the estimated replacement cost of each individual specimen:

Species	Replacement Cost
Any endangered species	\$2,300.00
Any threatened species	2,000.00
Any other species with no open season	25.00
Beaver	48.00
Black Bear	1,035.00
Crow	2.00
Deer	279.00
Dove	6.00
Duck	19.00
Fox	41.00
Goose	58.00
Grouse	17.00
Mink	35.00
Muskrat	9.00
Nutria	7.00
Opossum	3.00
Otter	300.00
Pheasant	17.00
Quail	14.00
Rabbit	6.00
Raccoon	27.00
Rail	17.00
Skunk	9.00
Snipe	12.00
Squirrel, fox	25.00
Squirrel, gray and red	8.00

PROPOSED RULES

Tundra swan	500.00	
Weasel	5.00	
Wild boar	350.00	
Wildcat	300.00	
Wild turkey	400.00	500.00
Woodcock	12.00	

Statutory Authority G.S. 113-134; 113-267.

SUBCHAPTER 10D - GAME LANDS REGULATIONS

.0002 GENERAL REGULATIONS REGARDING USE

(d) Game Lands License.

(1) Hunting and Trapping:

(A) Requirement. Except as provided in Part (B) of this Subparagraph, any person entering upon any game land for the purpose of hunting, trapping, or participating in dog training or field trial activities must have in his possession a game lands license in addition to the appropriate hunting or trapping licenses. Any person horseback riding on Game Lands owned by the Wildlife Resources Commission must have in their possession a current, valid game lands license.

(B) Exceptions:

(i) A person under 16 years of age may hunt on game lands on the license of his parent or legal guardian.

(ii) The resident and nonresident sportsman's licenses include game lands use privileges.

(iii) Judges and nonresidents participating in field trials under the circumstances set forth in Subsection (c) of this Rule may do so without the game lands license.

(iv) On the game lands listed in Rule .0003 (d) (1) of this Subchapter the game lands license is required only for hunting doves; all other activities are subject to the control of the landowners.

(2) Trout Fishing. Any person 16 years of age or over, including an individual fishing with natural bait in the county of his residence, entering a game land for the purpose of fishing in designated public mountain trout waters located thereon must have in his possession a game lands license in addition to the regular fishing license and special trout license. The game lands license is not required to fish in that part of Slick Rock Creek which coincides with the Tennessee State line,

or when fishing from boat on Calderwood Lake. The resident and nonresident sportsman's licenses and short-term comprehensive fishing licenses include trout fishing privileges on game lands.

Statutory Authority G.S. 113-134; 113-264; 113-270.3; 113-291.2; 113-291.5; 113-305; 113-306.

.0003 HUNTING ON GAME LANDS

(c) Time and Manner of Taking. Except where closed to hunting or limited to specific dates by these regulations, hunting on game lands is permitted during the open season for the game or furbearing species being hunted. On managed waterfowl impoundments, hunters shall not enter the posted impoundment areas earlier than 4:00 a.m. on the permitted hunting dates, and hunting is prohibited after 1:00 p.m. on such hunting dates; decoys may not be set out prior to 4:00 a.m. and must be removed by 3:00 p.m. each day. On Butner-Falls of Neuse, New Hope and Shearon Harris Game Lands waterfowl hunting is limited to the period from one-half hour before sunrise to 1:00 p.m. on the open hunting days. No person shall operate any vessel or vehicle powered by an internal combustion engine on a managed waterfowl impoundment.

No person shall attempt to obscure the sex or age of any bird or animal taken by severing the head or any other part thereof, or possess any bird or animal which has been so mutilated.

No person shall place, or cause to be placed on any game land, salt, grain, fruit, or other foods without prior written authorization of the Commission or its agent and no person shall take or attempt to take any game birds or game animals attracted to such foods. ~~No person shall use an electronic calling device for the purpose of attracting wild birds or wild animals.~~

No live wild animals or wild birds shall be removed from any game land.

Statutory Authority G.S. 113-134; 113-264; 113-291.2; 113-291.5; 113-305.

SUBCHAPTER 10F - MOTORBOATS AND WATER SAFETY

SECTION .0300 - LOCAL WATER SAFETY REGULATIONS

.0336 NORTHAMPTON COUNTY

(a) Regulated Area. This Rule applies only to that portion of Lake Gaston which lies within the boundaries of Northampton County.

(b) Speed Limit Near Ramps. No person shall operate a vessel at greater than no-wake speed

within 50 yards of any public boat launching ramp while on the waters of Gaston Lake in Northampton County.

(c) Speed Limit in Mooring Areas. No person shall operate a vessel at greater than no-wake speed while within a marked mooring area established with the approval of the Executive Director, or his representative, on the waters of Gaston Lake in Northampton County.

(d) Speed Limit Near Bridge. No person shall operate a vessel at greater than no-wake speed within 50 yards on either side of the Pea Hill Creek Bridge.

(e) ~~(d)~~ Restricted Swimming Areas. No person operating or responsible for the operation of a vessel shall permit it to enter any marked public swimming area established with the approval of the Executive Director, or his representative, on the waters of Gaston Lake in Northampton County.

(f) ~~(e)~~ Placement and Maintenance of Markers. The Board of Commissioners of Northampton County is designated a suitable agency for placement and maintenance of the markers implementing this Rule, subject to the approval of the United States Coast Guard and United States Army Corps of Engineers. With regard to marking Gaston Lake, all of the supplementary standards listed in Rule .0301(g) of this Section shall apply.

Statutory Authority G.S. 75A-3; 75A-15.

.0343 CHATHAM COUNTY

(a) Definitions. In addition to the definitions set forth in Paragraph (b) of Rule .0301 of this Section, the following definitions apply in this Rule:

- (1) Corps - Corps of engineers, United States Army;
- (2) Regulated Area - That portion of the B. Everett Jordan Reservoir located within the boundaries of Chatham County.

(b) Speed Limit. No person shall operate a vessel at greater than no-wake speed on the regulated area as follows:

- (1) within 50 yards of any public boat launching ramp; ~~located on the regulated area;~~
- (2) within the restricted zone adjacent to the Crosswinds Marina located north of US 64 and west of SR 1008 as indicated by markers located with approval of the Executive Director of the Wildlife Resources Commission;
- (3) within 100 feet of the US 64 bridge, NC 751 bridge, and the three SR 1008 bridges.

(c) Restricted Swimming Areas. No person operating or responsible for the operation of any vessel, surfboard or water skis shall permit the same to enter any marked swimming area located on the regulated area.

(d) Placement and Maintenance of Markers. The Board of Commissioners of Chatham County is designated a suitable agency for placement and maintenance of the markers implementing this Rule, subject to the approval of the corps. With regard to marking the regulated area described in Paragraph (a) of this Rule, the supplementary standards listed in Subparagraphs (1) through (8) of Rule .0301(g) of this Section shall apply.

Statutory Authority G.S. 75A-3; 75A-15.

TITLE 25 - OFFICE OF STATE PERSONNEL

Notice is hereby given in accordance with G.S. 150B-12 that the Office of State Personnel/State Personnel Commission intends to amend rule(s) cited as 25 NCAC 11 .1307, .1312 - .1313.

The proposed effective date of this action is September 1, 1989.

The public hearing will be conducted at 9:00 a.m. on June 15, 1989 at Personnel Development Center, 101 W. Peace Street, Raleigh, North Carolina.

Comment Procedures: Interested persons may present statements orally or in writing at the hearing or in writing prior to the hearing by mail addressed to: Drake Maynard, OSP, 116 W. Jones Street, Raleigh, NC 27611.

CHAPTER 1 - OFFICE OF STATE PERSONNEL

SUBCHAPTER II - SERVICE TO LOCAL GOVERNMENT

SECTION .1300 - DISCIPLINARY ACTION: SUSPENSION AND DISMISSAL

.1307 APPEALS

(a) A permanent employee who has been demoted, suspended ~~received a written or final warning or been~~ dismissed shall have 15 calendar days from the date of his receipt of written notice of such action to file an appeal with his ~~agency~~ department/university grievance procedure. Grievances which do not allege discrimination must follow the ~~departmental~~ department/university grievance procedure. ~~those which do at~~

~~lege discrimination may, at the election of the employee, proceed through the departmental procedure or proceed directly to the State Personnel Commission. An appeal of a final departmental or university decision must be filed in accordance with G.S. 150B-23 and within 30 calendar days of receipt of the final agency decision.~~

~~(b) A direct appeal to the State Personnel Commission alleging Grievances which allege discrimination may, at the election of the employee, proceed through the department or university procedure or proceed directly to the State Personnel Commission (SPC) for a hearing by the Office of Administrative Hearings (OAH) and a decision by the SPC. A direct appeal to the SPC (such appeal involving a contested case hearing by the OAH and a recommended decision by that agency to the SPC) alleging discrimination must be filed in accordance with G.S. 150B-23 and must be filed with the commission within 30 calendar days of the alleged discriminatory act. A final agency decision may be appealed to the State Personnel Commission for a contested case hearing by the Office of Administrative Hearings and a decision by the State Personnel Commission. Such an appeal must be filed within 30 calendar days of receipt of the final agency decision.~~

~~(c) If the employee is unable to obtain a final agency decision in a reasonable period of time, then the employee may proceed with his appeal to the State Personnel Commission as stated in this Rule. Requests for hearing by the Office of Administrative Hearings under this Rule Grievances filed on an untimely basis (see G.S. 126-35, G.S. 126-36 and G.S. 126-38) must shall be dismissed. Allegations of discrimination raised more than 30 calendar days after receipt of notice of the occurrence of the alleged the employee learned of the allegedly discriminatory action act must be dismissed. without hearings.~~

Statutory Authority G.S. 126-4; 126-35; 126-37; 126-38; Chapter 150B, Article 3.

1312 SUSPENSION

Investigatory or disciplinary suspension may be used by management in appropriate circumstances. However, the following provisions shall control its use:

- (1) An employee who has been suspended for either investigatory or disciplinary reasons must be placed on compulsory leave of absence without pay.
- (2) Investigatory suspension without pay may be used to provide time to investigate, establish facts, and reach a decision concerning

an employee's status in those cases where it is determined the employee should not continue to work pending a decision. Investigatory suspension without pay may be appropriately used to provide time to schedule and hold a pre-dismissal conference. Also, management may elect to use investigatory suspension in order to avoid undue disruption of work or to protect the safety of persons or property. An investigatory suspension without pay shall not exceed 45 calendar days. However, an agency head may, in the exercise of his discretion, extend the period of investigatory suspension without pay beyond the 45-day limit. The employee must be informed in writing of the extension, the length of the extension, the specific reasons for the extension and his right of appeal. A copy of the above communication shall be sent to the State Personnel Director and the Department of Human Resources Regional Personnel Director. If no action has been taken by management by the end of 45 calendar days and no extension has been made, one of the following must occur: Reinstatement of the employee with full backpay; appropriate disciplinary action based on the results of the investigation; reinstatement of the employee with up to three days pay deducted from the backpay. (See Subparagraph (4) of this Rule.)

- (3) Investigatory suspension of an employee shall not be used for the purpose of delaying an administrative decision on an employee's work status pending the resolution of a civil or criminal court matter involving the employee.
- (4) An employee who has been suspended for investigatory reasons may be reinstated with up to three days pay deducted from his salary. Such determination is to be based upon management's determination of the degree to which the employee was responsible for or contributed to the reasons for the suspension. This period constitutes a disciplinary suspension without pay and must be effected in accordance with Subparagraphs (5) and (6) of this Rule.
- (5) An employee may be suspended without pay for disciplinary purposes for causes relating to any form of personal conduct or in conjunction with a final written warning for performance of duties. However, a disciplinary suspension without pay must be for at least one full working day, but not more than three working days. Prior to placing an employee on disciplinary suspension

without pay, a management representative shall conduct a pre-suspension conference with the employee. This conference shall be carried out in the same fashion as a pre-dismissal conference.

- (6) An employee who has been suspended without pay must be furnished a statement in writing setting forth the specific acts or omissions that are the reasons for the suspension and the employee's appeal rights. Where suspension is for disciplinary reasons, a copy of the statement shall be forwarded, through administrative channels, to the Employee Relations Division of the Office of State Personnel for the purpose of monitoring the policy use.

Statutory Authority G.S. 126-4.

.1313 DEMOTION

(a) Any employee may be demoted as a disciplinary measure. Demotion may be made on the basis of either unsatisfactory job performance or unacceptable personal conduct.

- (1) Job Performance. An employee may be demoted for unsatisfactory job performance after the employee has received at least two prior warnings on his perform-

ance. At least one of the warnings prior to demotion must be in writing.

- (2) Personal Conduct. An employee may be demoted for unacceptable conduct without any prior warnings. Cause for demotion on the basis of personal conduct does not have to be as serious as cause for dismissal.

- (3) Notice. An employee who is demoted must receive written notice of the specific reasons for the demotion, as well as notice of his appeal rights.

(b) Disciplinary demotions may be accomplished in several ways. The employee may be demoted to a lower classification with or without a loss of pay. Or the employee may be reduced to a lower step in the same pay grade with a corresponding loss of pay. In no event shall an employee's pay be lowered below step one of his current pay grade, unless the employee is demoted to a lower classification.

(c) Prior to the decision to demote an employee for disciplinary reasons, a management representative must conduct a pre-demotion conference with the employee. This pre-demotion conference shall be accomplished in the same fashion as the pre-dismissal conference.

Statutory Authority G.S. 126-4.

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